



February 20, 2015

HOUSE BILL No. 1405

DIGEST OF HB 1405 (Updated February 18, 2015 4:47 pm - DI 69)

Citations Affected: IC 4-6; IC 5-11.

Synopsis: State examiner, attorney general, and prosecuting attorneys. Provides that if the state examiner of the state board of accounts: (1) refers to a prosecuting attorney certain violations of the law that were committed by a local public officer concerning the state examiner or the state board of accounts; and (2) discovers that a subsequent, unrelated violation has been committed by the local public officer; the state examiner may refer the matter to the attorney general. Allows the attorney general to: (1) bring a civil action to remove the local public officer from office; and (2) combine the civil action with a civil proceeding to recover any public funds misappropriated, diverted, or unaccounted for. Requires a prosecuting attorney and the attorney general to assist the state examiner upon the state examiner's request when a certified examination report shows or discloses the commission of a crime by certain persons.

Effective: July 1, 2015.

Slager, Fine

January 14, 2015, read first time and referred to Committee on Courts and Criminal Code.
February 19, 2015, amended, reported — Do Pass.

HB 1405—LS 6572/DI 97



February 20, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1405

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-6-2-1.1, AS AMENDED BY P.L.205-2013,
2 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 1.1. The attorney general has concurrent
4 jurisdiction with the prosecuting attorney in the prosecution of the
5 following:
6 (1) Actions in which a person is accused of committing, while a
7 member of an unlawful assembly as defined in IC 35-45-1-1, a
8 homicide (IC 35-42-1).
9 (2) Actions in which a person is accused of assisting a criminal
10 (IC 35-44.1-2-5), if the person alleged to have been assisted is a
11 person described in subdivision (1).
12 (3) Actions in which a sheriff is accused of any offense that
13 involves a failure to protect the life of a prisoner in the sheriff's
14 custody.
15 (4) Actions in which a violation of IC 2-8.2-4-6 (concerning

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constitutional convention delegates) has occurred.

(5) Actions under IC 5-11-5-9 referred to the attorney general by a prosecuting attorney.

SECTION 2. IC 5-11-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A public officer who:

(1) fails to make, verify, and file with the state examiner any report required by this chapter;

(2) fails to follow the directions of the state examiner in keeping the accounts of the officer's office;

(3) refuses the state examiner, deputy examiner, field examiner, or private examiner access to the books, accounts, papers, documents, cash drawer, or cash of the officer's office; or

(4) interferes with an examiner in the discharge of the examiner's official duties;

commits a Class B infraction and forfeits office.

(b) This subsection does not apply to an agency, an employee, a special state employee, or a state officer as defined in IC 4-2-6-1(a). If the state examiner refers a violation of this section to a prosecuting attorney and the state examiner discovers a subsequent, unrelated violation has been committed by a public officer who is not a public officer of the state, the state examiner may refer the matter to the attorney general. The attorney general may:

(1) bring a civil action to remove the public officer from office; and

(2) combine the civil action brought under subdivision (1) with a civil proceeding brought by the attorney general under IC 5-11-5-1.

SECTION 3. IC 5-11-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 21. (a) All public officers shall adopt and use the books, forms, records, and systems of accounting and reporting adopted by the state board of accounts, when directed so to do by the board, and all forms, books, and records shall be purchased by those officers in the manner provided by law. An officer who refuses to provide such books, forms, or records, fails to use them, or fails to keep the accounts of ~~his~~ **the officer's** office as directed by the board commits a Class C infraction and forfeits ~~his~~ **the officer's** office.

(b) This subsection does not apply to an agency, an employee, a special state employee, or a state officer as defined in IC 4-2-6-1(a). If the state examiner refers a violation of this section to a



1 prosecuting attorney and the state examiner discovers a
 2 subsequent, unrelated violation has been committed by a public
 3 officer who is not a public officer of the state, the state examiner
 4 may refer the matter to the attorney general. The attorney general
 5 may:

6 (1) bring a civil action to remove the public officer from
 7 office; and

8 (2) combine the civil action brought under subdivision (1)
 9 with a civil proceeding brought by the attorney general under
 10 IC 5-11-5-1.

11 SECTION 4. IC 5-11-5-9 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2015]: Sec. 9. (a) This section does not apply to an agency, an
 14 employee, a special state employee, or a state officer as defined in
 15 IC 4-2-6-1(a).

16 (b) A prosecuting attorney and the attorney general shall assist
 17 the state examiner upon the state examiner's request when a
 18 certified examination report shows or discloses the commission of
 19 a crime by any person. If the state examiner requests the assistance
 20 of a prosecuting attorney under this section, the following apply:

21 (1) The state examiner or the state examiner's designee shall
 22 refer the facts drawn from the examination to the prosecuting
 23 attorney of the county in which the crime is alleged to have
 24 been committed.

25 (2) The state examiner shall assist the prosecuting attorney in
 26 prosecuting an action under this section, which may include
 27 the appointment by the prosecuting attorney of a state board
 28 of accounts attorney to serve as a special deputy prosecutor.

29 (3) The prosecuting attorney to whom facts concerning the
 30 commission of a crime are referred under subdivision (1) may
 31 refer the matter to the attorney general.

32 (4) Upon receipt of a referral of a matter under subdivision
 33 (3), the attorney general may:

34 (A) file an information in a court with jurisdiction over the
 35 matter in the county in which the crime is alleged to have
 36 been committed; and

37 (B) prosecute the alleged crime.

38 (5) If the attorney general prosecutes an alleged crime under
 39 subdivision (4), the state examiner or the state examiner's
 40 designee shall assist the attorney general in the prosecution,
 41 which may include the appointment by the attorney general
 42 of a state board of accounts attorney to serve as a special



1 **deputy attorney general.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1405, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 2, delete "Upon the request of the prosecuting attorney or the" and insert: **"Actions under IC 5-11-5-9 referred to the attorney general by a prosecuting attorney."**

SECTION 2. IC 5-11-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. **(a)** A public officer who:

- (1) fails to make, verify, and file with the state examiner any report required by this chapter;
- (2) fails to follow the directions of the state examiner in keeping the accounts of the officer's office;
- (3) refuses the state examiner, deputy examiner, field examiner, or private examiner access to the books, accounts, papers, documents, cash drawer, or cash of the officer's office; or
- (4) interferes with an examiner in the discharge of the examiner's official duties;

commits a Class B infraction and forfeits office.

(b) This subsection does not apply to an agency, an employee, a special state employee, or a state officer as defined in IC 4-2-6-1(a). If the state examiner refers a violation of this section to a prosecuting attorney and the state examiner discovers a subsequent, unrelated violation has been committed by a public officer who is not a public officer of the state, the state examiner may refer the matter to the attorney general. The attorney general may:

- (1) bring a civil action to remove the public officer from office; and**
- (2) combine the civil action brought under subdivision (1) with a civil proceeding brought by the attorney general under IC 5-11-5-1.**

SECTION 3. IC 5-11-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 21. **(a)** All public officers shall adopt and use the books, forms, records, and systems of accounting and reporting adopted by the state board of accounts, when directed so to do by the board, and all forms, books, and records shall be purchased by those officers in the manner provided by law. An officer who refuses to provide such books, forms, or records, fails to use them, or fails to keep the accounts of ~~his~~ **the officer's** office as



directed by the board commits a Class C infraction and forfeits ~~his~~ **the** officer's office.

(b) This subsection does not apply to an agency, an employee, a special state employee, or a state officer as defined in IC 4-2-6-1(a). If the state examiner refers a violation of this section to a prosecuting attorney and the state examiner discovers a subsequent, unrelated violation has been committed by a public officer who is not a public officer of the state, the state examiner may refer the matter to the attorney general. The attorney general may:

- (1) bring a civil action to remove the public officer from office; and**
- (2) combine the civil action brought under subdivision (1) with a civil proceeding brought by the attorney general under IC 5-11-5-1.**

SECTION 4. IC 5-11-5-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 9. (a) This section does not apply to an agency, an employee, a special state employee, or a state officer as defined in IC 4-2-6-1(a).**

(b) A prosecuting attorney and the attorney general shall assist the state examiner upon the state examiner's request when a certified examination report shows or discloses the commission of a crime by any person. If the state examiner requests the assistance of a prosecuting attorney under this section, the following apply:

- (1) The state examiner or the state examiner's designee shall refer the facts drawn from the examination to the prosecuting attorney of the county in which the crime is alleged to have been committed.**
- (2) The state examiner shall assist the prosecuting attorney in prosecuting an action under this section, which may include the appointment by the prosecuting attorney of a state board of accounts attorney to serve as a special deputy prosecutor.**
- (3) The prosecuting attorney to whom facts concerning the commission of a crime are referred under subdivision (1) may refer the matter to the attorney general.**
- (4) Upon receipt of a referral of a matter under subdivision (3), the attorney general may:**
 - (A) file an information in a court with jurisdiction over the matter in the county in which the crime is alleged to have been committed; and**
 - (B) prosecute the alleged crime.**



(5) If the attorney general prosecutes an alleged crime under subdivision (4), the state examiner or the state examiner's designee shall assist the attorney general in the prosecution, which may include the appointment by the attorney general of a state board of accounts attorney to serve as a special deputy attorney general."

Page 2, delete lines 3 through 16.

and when so amended that said bill do pass.

(Reference is to HB 1405 as introduced.)

WASHBURN

Committee Vote: yeas 8, nays 0.

